

# **SYNCHRONIZE DRUNK OPERATION LAWS IN MICHIGAN**

## **CURRENT STATUS**

Charge	Threshold	.17 High BAC Charge	.08 causing death charge	Companion charges (allowing drunk to operate, serious injury by drunk, etc.)
DRUNK DRIVING	.08	Yes	Yes.	Yes
DRUNK SNOWMOBILING	.10	No	No	No
DRUNK BOATING	.10	No	No	No
DRUNK ORV	.10	No	No	No

Thursday, January 19, 2012

Victor Fitz  
Cass County Prosecutor

January 21, 2006 6:59AM

## **Sentence in fatal Jet Ski crash**

**Mishawaka man gets six months in August's Donnell Lake death.**

JEFF ROMIG  
Tribune Staff Writer

CASSOPOLIS -- Brandon Cripe would be in prison today had he been driving an automobile when he hit and killed 7-year-old Ryan Zielinski this past August.

The 33-year-old Mishawaka man had a .08 blood alcohol level when he was piloting a Jet Ski on Donnell Lake.

That's why he was sentenced Friday to six months in the Cass County Jail with a possibility of serving a portion of his time on tether.

Judge Michael Dodge made a plea to the Michigan Legislature on Friday morning to update marine laws -- which list the legal blood alcohol limit at .10 -- so they're in step with driving laws.

Drivers of cars and trucks are considered intoxicated when their blood alcohol level is .08 or higher.

Dodge said vehicular homicides generally score out in a prison-only sentencing guideline range.

Instead, Cripe will spend six months in jail, serve a 2-year probation term, perform an unspecified amount of community service and pay the Zielinski family \$2,623 in restitution.

During the offering of his guilty plea on a negligent homicide charge in October, Cripe acknowledged driving a Jet Ski at a high rate of speed and in a reckless fashion.

Those actions led to a collision with a raft carrying two young children, including Ryan, who was visiting his grandparents from Lansing, Ill.

In exchange for Cripe's plea to the two-year felony, Cass County Prosecutor Victor Fitz agreed to drop a 90-day misdemeanor of impaired operation of a marine vehicle.

"This was not an accident," Ryan's aunt, Mary Beth Zielinski told the court Friday

morning. "This was an act of reckless neglect."

Zielinski also questioned how much over the legal limit Cripe was at the time of his accident since his blood-alcohol level was taken "six hours later."

"I don't know what this .08 reflects," she said.

Andrea Wittorp, the mother of 6-year-old Christian Wittorp, also spoke in court.

Her son escaped serious injury despite riding on the same tube as Ryan.

"He's angry. He's sad. He misses Ryan dearly," she said of her son.

Wittorp also took a shot at Cripe for his behavior following the collision.

"He did nothing to help get the children out of the water," she said indignantly. "He was actually screaming profanities."

Friday, Cripe could barely speak.

Through tears and sobs, he offered an apology.

"I'm sorry for the pain and terrible loss I've caused for these two families," said Cripe, who's married with two daughters. "Every day since Aug. 20, I think of Ryan, and I pray for his family. I hope someday you can forgive me."

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April 28, 2006 6:59AM

## **Fitz urges tough drunken boating law**

Father describes pain of son's death in lake accident.

MELISSA JACKSON  
South Bend Tribune Staff Writer

Joe Zielinski's family spent countless idyllic summer days at Donnell Lake.

They swam, they fished, they enjoyed bonfires together.

"It was like paradise for us all," the Lansing, Ill., man told a room full of Dowagiac Union High School juniors and seniors Thursday.

That paradise was shattered last August when his 7-year-old son, Ryan, was killed on the lake's tranquil waters by a personal watercraft operator with a blood-alcohol content of .08.

As part of Cass County Prosecutor Victor Fitz's high school anti-drunk driving presentations for Crime Victims' Rights Week, Zielinski shared his story of how an impaired driver changed his family forever.

Ryan was one of several children enjoying a ride on rafts being towed around the lake by a boat.

According to Fitz, the boaters were doing everything right, from cruising along slowly to making sure the rope was the right length. Ryan's grandmother even rode behind the rafts on a personal watercraft to help keep other watercraft away from the children.

Also at the Vandalia lake that day was Brandon Cripe. After consuming enough alcohol to raise his blood-alcohol content to 0.08, the Mishawaka man hopped on his Jet Ski and began cruising around the lake and eventually began playing a game of tag with a fellow Jet Skier, Fitz said. Cripe lost sight of the other player and was looking over his shoulder as his watercraft sped at speeds between 50 and 60 mph toward the boat towing the other children.

"When you're sober and you're going 50 or 60 mph, that's not a lot of time to react," Fitz said. "...When you've been drinking, it's that much tougher to make that decision."

When Cripe realized he was about to hit the boat, he swerved and hit the boat's wake,

which apparently launched him over two of the three rafts being towed. The vessel then landed on top of Ryan, who was killed instantly.

"I am asking all of you here to think twice before operating any type of motor vehicle or being a passenger when the driver has been drinking," Zielinski said. "I wouldn't want any of you to be responsible for someone else's death or have your parents suffer for the rest of their life because of your own death."

At the time of the accident, Zielinski was driving to the lake from a nursing home where his wife was recovering from a severe brain injury. He recalled feeling completely numb from the shock of the news. And that feeling hasn't left him yet.

"Ever since Ryan's death it feels like my soul has left my body," Zielinski said. "I'm just kind of numb inside. Everything that used to be important to me or have any meaning just doesn't seem important anymore."

Now Zielinski is working to change some of the laws that govern Michigan's waterways.

While Michigan's legal alcohol limit on roadways is now 0.08, it remains at 0.10 on the water. As a result, Cripe could only be charged with a two-year felony instead of a 15-year felony. He was sentenced to six months in county jail in January, and Zielinski said Cripe was released on tether 41 days after his sentencing.

**Zielinski wants to see the legal blood-alcohol limit for watercraft operators lowered to the same level as that of motor vehicle drivers. He also would like to see more stringent safety course requirements in place for those who use watercraft.**

He agreed to speak to Dowagiac students if he was also able to discuss the issue with some state legislators. Chris Siebenmark, who is an aide for state Sen. Ron Jelinek, R-Three Oaks, met with Zielinski for lunch after the presentation.

Fitz talked to students at all Cass County high schools about drunk driving this week and gave them an opportunity to sign a petition urging legislators to consider the change.

Staff writer Melissa Jackson: [mjackson@sbtinfo.com](mailto:mjackson@sbtinfo.com) (269) 687-7003

**PRESS RELEASE**

**FOR IMMEDIATE RELEASE**

TO: All Area Media

FROM: Victor A. Fitz  
Cass County Prosecutor

DATE: 5-25-06

From: Victor Fitz, Cass County Prosecutor 269-445-4460  
To: Area Press and Public

With the approach of Memorial Day weekend, Cass County Prosecutor Victor Fitz sent a letter to all 148 Michigan Legislators today urging them to synchronize Michigan's watercraft drunk driving laws with the state's roadway drunk driving laws.

Support Petitions signed by over two hundred Cass County high school students accompanied the request to the legislators.

In recent years Michigan legislators have appropriately reduced the blood alcohol threshold for roadway intoxication from .10 to .08 [See MCL 257.625(1) et. seq]. This has provided police, prosecutors and judges with more effective tools with which to protect the public from roadway drunk driving injuries and death.

Unfortunately, however, the threshold for watercraft operation while intoxicated remains at .10 [See MCL 324.80176(1) et. seq]. This higher marine threshold limits the tools available to law enforcement when dealing with watercraft operators who have a .08 or .09 blood alcohol level.

The reality of this limitation became extremely personal to Joseph and Lisa Zielinski on August 20<sup>th</sup>, 2005. On that date, their seven-year-old son Ryan was lawfully being towed by a boat while in an inner tube on Donnell Lake, Cass County. It was Ryan's terrible misfortune that another boater on the lake, Brandon Cripe, had been drinking throughout the day. Mr. Cripe crashed his wave runner into the boy at a high speed, killing little Ryan instantly.

Mr. Cripe had a .08 blood alcohol level.

The move to change the watercraft drunk driving laws from .10 to .08 was announced to high school students in Cass County during this year's Crime Victim's Rights Week, April 23<sup>rd</sup>-29<sup>th</sup>, 2006.

The area high school students rallied around the issue and hundreds signed petitions urging legislators for tougher drunk boating laws. Their petitions requesting that the current .10 watercraft drunk driving threshold be brought in line with the .08 roadway drunk driving threshold are being forwarded to the legislators along with the letters from the Cass County Prosecutor's Office.

A copy of the prosecutor's letter to the legislators is attached.

Friends and neighbors of the Zelinski family are also circulating a similar petition in the Donnell Lake area and intent to forward it to the Michigan Legislature in the near future.

Joe Zelinski and his family support the change to .08. They are also urging legislators to consider boater safety classes and certificates for watercraft operators.

Fitz stated "By changing the law, lives can be saved. Tragically, nothing can bring Ryan back to his family. But this effort can help make our waterways safer for future generations. We are grateful that Senator Ron Jelinek and Representative Rick Shaffer, who represent the Donnell Lake area, have been very supportive and cooperative regarding this effort. Now we look forward to the consideration of Michigan's legislative body as a whole."

April 26 & 27, 2006

### Dear Members of the Michigan House and Senate:

We the students of Cassopolis, Dowagiac, Edwardsburg, Marcellus and Volinia High School, Cass County, Michigan strongly urge the Legislators in our great state to consider the following:

.08 is now the legal alcohol limit for operating a motor vehicle on a roadway in Michigan. MCL 257.625(1). This threshold was changed in recent years from .10 to .08 to protect the public and serve as an added deterrent to drunk driving. This positive change has no doubt saved many citizens from injury and even death on our roadways.

Unfortunately, however, the legal alcohol limit for operating a vessel on the waterways of this state remains at .10. MCL 324.80176(1).

This higher tolerance for the use of alcohol on the waterways creates unfortunate limitations on law enforcement and prosecutors in their efforts to create safe waterways for the citizens and guests of Michigan.

This reality was made extremely evident in a recent Cass County waterway tragedy involving seven year old Ryan Zielinski. In the summer of 2005, Ryan, was innocently riding on a floatation device pulled at a low speed by a water vessel on Donnell Lake, Cass County. At the same time, on the same lake, an adult was operating a personalized watercraft. This adult had a blood alcohol level of .08. This .08 operator tragically ran into young Ryan at a high rate of speed and killed him.

On Michigan's roadways, this .08 alcohol level would have been presumptively illegal, allowing law enforcement and prosecutors to seek a charge of having an illegal blood alcohol level causing death. 257.625(4)(a). However, since he was operating on the waterways the law enforcement and prosecutors were precluded from charging him with having an illegal blood alcohol level causing death. MCL 324.80176(4). An important tool which should have been available to law enforcement and prosecutors was not there.

Fortunately, the Ryan Zielinski case was ultimately resolved to the satisfaction of the victim's family, law enforcement and the prosecution. However, the statutory tools available for roadway tragedies were not available to deal with this waterway tragedy.

We feel that Ryan's life and the life of all our citizens are just as important on the waterways as on our roadways. This case serves as a compelling reason to change and make the boating laws to conform with the roadway laws. Life lost on water is no different than life lost on roadways.

Accordingly, we strongly encourage you to consider legislation which will bring our marine drunk driving laws in line with our roadway drunk driving laws by changing the threshold alcohol limit from .10 to .08.

We are extremely appreciative that Senator Ron Jelinek and Representative Rick Shaffer--the legislators from the district where the Ryan Zielinski tragedy occurred--- have agreed to give this matter their serious consideration.

**We urge each member of the Michigan House and Senate to do the same.**

Thank you for your time and serious consideration.

Sincerely,

NAME	SCHOOL	DATE
Mimi Kowalecky	Ross Beatty High	4/26/06
Mira Kayalawi	Ross Beatty High	4/26/06
Kimberly	Ross Beatty High	4/26/06
Nicole Steinroff	Ross Beatty High	4/26/06
Jessica Jones	Ross Beatty High	4/26/06
Brittany Jones	Ross Beatty High	4/26/06
Chloe Jones	Ross Beatty High	4/26/06
Colie S.	Ross Beatty High	4/26/06
Madison Taylor	Ross Beatty High	4/26/06
Mikaela Wink	Ross Beatty High	4/26/06
Josmine Holman	Ross Beatty High	4/26/06
Taura Williams	Ross Beatty High	4/26/06
Kanye West	Ross Beatty High	4/26/06







Casey Stapp	Dawagiac	4/27/06	Jasper Castro	Volinia	4-26-06
Alvin Hoffman	Dawagiac	4/27/06	Marlene	Volinia	4-26-06
Chloe Smith	Dawagiac	4/27/06	Shana Starnett	Volinia	4-26-06
Ed Brown	Dawagiac	4/27/06	Kassie Pharoos	Volinia	4-26-06
Ray McMillan	Dawagiac	4/27/06	Johnny Martin	Volinia	4-26-06
Robb Hill	Dawagiac	4/27/06	Cory Glasgow	Volinia	4-26-06
Jim Piotrowski	Dawagiac	4/27/06	Matt Holt	Volinia	4-26-06
Jimmy Tule	Dawagiac	4/27/06	Will Harris	Volinia	4-26-06
Andrea Green	Dawagiac	4/27/06	Peggy Andrews	Volinia	4-26-06
Jeffrey Conn	Dawagiac	4/27/06	Flora Munn	Volinia	4-26-06
Jonathan Cary	Dawagiac	4/27/06	Blake McNamee	Volinia	4-26-06
Carl Price	Dawagiac	4/27/06	Danette Kerner	Volinia Antares School	4-26-06
Quinn Fawcett	Dawagiac	4/27/06	Helen Head	Volinia Antares School	4-26-06
Jason Tule	Dawagiac	4/27/06	Machelle Williams	Volinia School	4-26-06
Barney Benson	Dawagiac	4/27/06	Destiny Rose	Volinia	4-26-06
Michael Brown	Dawagiac	4/27/06	John McNamee	Volinia	4-26-06
Kyle Wilkins	Dawagiac	4/27/06	Sue Maelo	Volinia	4-26-06
Nathan Filley	Dawagiac	4-27-06	Quente Fisher		
James Smith	Dawagiac	4/27-06	Gennie Hapier	Volinia	4-26-06
James Ambrose	Dawagiac	4/27/06	Annie Mosier	Volinia	4-26-06
Rob Clark III	Dawagiac	4/27/06	Wally Ellis	Volinia	4-26-06
Tony Stewart	Dawagiac	4/27/06	Sarah Eichhoff	Volinia	4-26-06
Brandon Willey	Dawagiac	4/27/06			
Pat Brosnan	Dawagiac	4-27-06			
Joseph Shouse	Dawagiac	4-27-06			
Anna	Dawagiac	4-27-06			

Candice Bon	Marcellus	4/27/06
Nichole Williams	Marcellus	4/27/06
Shervin <del>For</del>	Marcellus	4/27/06
Rachel Somerville	Marcellus	4/27/06
Tonya Emily Wright	Marcellus	4/27/06
Chermy Donville	Marcellus	4/27/06
Ashtley Gore	Marcellus	4/27/06
Joseph Ryan Kelly	Marcellus	4/27/06
Branden King	Marcellus	4/27/06
Type Jakubowski	Marcellus	4/27/06
<del>Brandon King</del>	Marcellus	4/27/06
Cloragan Adamson	Marcellus	4/27/06
Marken Ruby	Marcellus	4/27/06
David S Bell	Marcellus	4/27/06
Jaime M Butler	Marcellus	4/27/06
Karla Castellucci	Marcellus	4/27/06
Dremer Coagbay	Marcellus	4/27/06
Meghan Hansen	Marcellus	4/27/06
Kerith White	Marcellus	4/27/06
<del>Deaton Pres</del>	Marcellus	4/27/06
Ally Oban	Marcellus	4/27/06
Big C	The Cell	4/27/06
<del>Ally Oban</del>	Marcellus	4/27/06

<del>Ad Smith</del>	Donagize	4/27/06
Kelcey M. Arismari	Edwardsburg	4/27/06
Cheryl Lawrence	Marcellus	4/27/06
Mindy Armstrong	Marcellus	4/27/06
Neena Fuchs	Marcellus	4/27/06
Amber Redmond	Marcellus	4/27/06
Christine Leseep	Marcellus	4/27/06
Kim Long	"	4/27/06
Megan Griffin	<del>Marcellus</del> Marcellus	4/27/06
Carminio Stopy	Marcellus	4/27/06
Adam Shreve	Marcellus	4/27/06
Ann King	Marcellus	4/27/06
Emma Parker Miller	Marcellus	4/27/06
Jim Senevala	Marcellus	4/27/06
Adam Smith	Marcellus	4/27/06
Schmidstad	Marcellus	4/27/06
Plathier S L	Marcellus	4/27/06
Tyanna Sheridan	Marcellus High	4/27/06
Christy Brinkley	Marcellus	4/27/06
Shelly Brinkley	Marcellus	4/27/06
Tawnya Hollins	Marcellus	4/27/06
James <del>Smith</del>	Marcellus	4/27/06
Patricia Fuchs	Marcellus	4/27/06

Wynn David  
Ed Vester  
Rog Breen  
Nico Bell  
Laura North  
Jason Clatter  
Mike Burns  
Charles Conboy

Marcellus  
Marcellus  
Marcellus  
Marcellus  
Marcellus  
Marcellus  
Marcellus  
Marcellus  
Marcellus

4-27-06  
4/27/08  
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4-27-06

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Hello, My name is Joe Zielinski and I was invited by prosecutor Victor Fitz to talk to all of you about the tragic death of my seven year old son Ryan. Ryan was killed by a man under the influence of alcohol while riding a jet ski.

The main reason I am here today is because I want to make changes in the laws that govern the lakes. Mr. Fitz invited me to speak here today. I was not willing to do so unless I was able to have a meeting with the members of the Michigan legislature and have them listen to what I have to say about the current laws on lakes, or the lack of.

Mr. Fitz came through for me and arranged a lunch meeting for later today. In getting this meeting, I am satisfied that these legislators came today to listen to what I have to say.

The laws on water are different than on the road. If your blood alcohol level is .08 and you drive a car, you are intoxicated enough to be charged with a DUI. If your on the water, you are NOT considered drunk. You have to be .10. Does that make sense to you???

I was told that the blood alcohol level of the man who hit

and killed my son was somewhere between .08 & .09. This man was only sentenced to 6 months in jail, 2 years on probation and cannot operate any watercraft during the period of his probation. He was also ordered to perform community service relating to watercraft safety after being released from jail. Forty one days after sentencing he was released with a tether. I was not notified of this and it was very disturbing. This man is now allowed to drive a car and be able to drive a watercraft in about a year and a half from now. Is that justice? I don't believe so, its just not right.

Because this man is in his thirties, he was not required to take a boating safety course and he did not take one voluntarily. I had conversations with Mr. Fitz and the sheriff. I had learned that you don't even need a drivers license to operate a jet ski. So you could have your drivers license suspended with a DUI and it is still legal to drive a jet ski!!

I am an avid stand up and sit down jet skier myself. When I was twelve years old, I had a boating safety certificate. About six years ago, everyone driving a jet ski needed to take an 8 hour safety course to get a mandatory certificate. Me and my wife both took the course. It seemed like the laws WERE going in the right direction. Real change was happening and safety on the

water was a priority. By the next summer, people in there mid-twenties didn't need to take this course any more. I have also noticed that the lake patrols have been less frequent in the last couple of years.

I could only wonder if safety courses were mandatory and there were more lake patrols. Maybe this could have saved my son. This is why I am meeting with the Michigan legislators today to discuss why alcohol levels differ from land to lake. Why older people don't need a drivers license or safety certificate. And why lakes are not patrolled every weekend? I am not asking for long term jail times in a tragedy like this. It isn't going to bring my son, Ryan back. But a lifetime suspension of a drivers license and to be banned from ever driving a watercraft, and or car, makes more sense to me for a person who chooses to drive reckless while under the influence of alcohol. To think this man is on the road today is frightening. What I am interested in is preventing tragedy through education, patrolling the lakes and even banning jet ski's if the lakes cannot be patrolled. Also, making blood alcohol levels the same for land and water.

Me and my wife, Lisa, had a great life. We both worked full time and were very busy raising our two sons, Kevin and Ryan. We live in Illinois but would spend almost every weekend at Donnell Lake in the summer. My



parents have a lake home there and I've been going up there almost my whole life. Our boys would be so excited about going to the lake. They swam, fished, took rides on our jet skis and tubing behind the boat. We also enjoyed bon fires at night. It was like paradise for all of us. We lived a very happy life.

In February of 2005, my wife had a horrific snowmobile accident. She suffered a severe brain injury and requires 24 hour care. Since her accident, I tried to be by her side as much as possible. That required a lot of outside help, including taking care of the kids. My parents continued to take the boys to the lake every weekend in the summer. We tried to keep their lives as normal as possible. Then on August 20<sup>th</sup> 2005, the unthinkable happened. I arrived late Saturday afternoon after spending the day with my wife at the nursing home. This was the routine all summer. I arrived only to find out my son was killed while I was driving up to Donnell Lake. What you feel when you learn your child is dead is absolutely the worst feeling you could possibly have. I remember my hands and arms were completely numb. I felt like I was going into shock. Ryan was tubing behind a neighbors boat with his brother, Kevin, and two other children. Kevin and the two other kids on the tubes came inches from being killed also. The person on the jet ski was driving in the wrong direction and was not paying attention to where

he was going. Instead of looking ahead he was looking behind himself and accelerating. I learned later that this man was told to stay away from the boat and the kids on the tubes. He was riding dangerously close to them. He continued to drive wreckless. Within minutes of this warning, my son, Ryan, was dead. This is the kind of effect alcohol has on some people.

I am asking all of you here to think twice before operating any type of motor vehicle or being a passenger when the driver has been drinking. I wouldn't want any of you to be responsible for someone elses death or have your parents suffer for the rest of there life because of your own death. When your out partying this summer, I want all of you to consider other means to get home from a party, if need be. You can always call someone that is sober. Your friends, aunts, uncles, and especially, your parents. Your parents would rather pick you up drunk from a party. Instead of getting that phone call in the middle of the night from the police telling them their child is dead.

Ever since Ryans death, it feels like my soul has left my body. Im just kind of numb inside. Everything that used to be important to me or have meaning, just doesn't seem important anymore. I tried professional help but there really isn't any answers for this type of loss.

My son Kevin is doing incredibly well for the most part. It breaks my heart to see him do things without his brother. They were inseparable. I am also very concerned on the long term effects this will have on him. My son Ryan was very talented, at seven years old, he could play the piano and accordion. Teaching him to read was effortless. He always had a smile on his face and was constantly joking around. His death is really beyond words for me. I don't know how I will continue to go on with life without him, but one thing for sure, my life will never be the same. Everyone who was touched by Ryan will never be the same.

I want to share a short conversation I had with Ryan while I tucked him in bed one night weeks before he was killed. Ryan said "Dad, what would it be like if I was dead?" I paused and I said, "Ryan, if you died, I would be sad for the rest of my life". I never thought I would know what it would really be like to loose a child. Unfortunately, now I do. Eight months have gone by and it only gets harder as time passes by. I have a feeling I was right about what I told Ryan when I tucked him in bed that night.

Ryan truly was a special boy. I hope this talk with all of you today prevents at least one tragedy, if not more. I also hope this helps me too.

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After my meeting today with the legislators, I should have information on how to change the water laws, get more patrol on lakes and sensible punishment for tragedies like this. If this school can help with a letter writing campaign or a vote of some kind, I would appreciate it very much. Information will be passed on to you in the future if this can be done.

THANK YOU VERY MUCH FOR LISTENING.



